

1 WILDE & ASSOCIATES
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5 Las Vegas, Nevada 89107
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Electronically Filed on 2/16/10

6 Attorneys for Bank of America

7 **UNITED STATES BANKRUPTCY COURT**
8 **DISTRICT OF NEVADA**

9 In Re:

10 TERRANCE T. MCCLAUGHLIN, SHERRI D.
11 MCCLAUGHLIN,

12 **Debtors.**

BK-S-09-29308 MKN

Date: February 18, 2010
Time: 1:30 p.m.

Chapter 13

14 **OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN #2**

15 COMES NOW, Bank of America, (hereinafter "Secured Creditor"), and files this Objection to
16 Confirmation of Chapter 13 Plan #2 stating as follows:

17 Secured Creditor is the first deed of trust holder on 1025 May Avenue, Las Vegas, Nevada
18 89104 (hereinafter "subject property"), and is owed over \$120,000.00. The Debtors filed a motion to
19 value and reduce Secured Creditor's lien to \$25,000.00, which motion was heard on February 4, 2010,
20 but no order has been entered as of yet and Secured Creditor is unsure of the outcome of the hearing.

21 Secured Creditor asks that this Court deny confirmation and dismiss the case based on the
22 following;

23 1. The plan was just filed on 2/11/10, yet the Debtor is attempting to confirm a plan only seven
24 (7) calendar days later. This is not proper notice time for the creditors.

2. The Debtors' plan proposes to pay \$800.00 per month after year one of the plan but only has disposable income of \$725.000. See exhibit "I" attached hereto as exhibit "A". It also bases plan payments on "anticipated" rental income from the subject property of \$550.00 per month. The Debtors' schedule "G" is attached hereto as exhibit "B" which did not disclose the "renters" of the property. It appears that the property is vacant and of no use to the estate. The Debtors can not confirm a plan on "anticipated" or "speculative" income.
3. The Debtor's plan does not budget for property taxes, insurance, or maintenance of the subject property, creating more of a monthly deficit.

Debtors' proposed Plan places all the risk of further losses on this particular Secured Creditor which has essentially been subsidizing this Debtorss' rental business by paying the insurance on the property for last several months that this Debtor has been attempting to confirm a plan.

11 U.S.C. 1326(a)(6) requires that a debtor be able to make all payments under the plan. This Debtor has not shown an ability to do so.

Until these Debtors can come before this Court with more information or income to properly fund a plan, the Court should not confirm this plan for it does not have a reasonable likelihood of success.

WHEREFORE, Secured Creditor asks that this Court deny confirmation and dismiss this case.

DATED this 16th day of February, 2010.

WILDE & ASSOCIATES

By /s/ Gregory L. Wilde, Esq.

GREGORY L. WILDE, ESQ.

Attorneys for Secured Creditor

B6I (Official Form 6I) (12/07)

In re Terrance T McLaughlin
Sherri D McLaughlin

Case No. _____

Debtor(s)

SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S)

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child. The average monthly income calculated on this form may differ from the current monthly income calculated on Form 22A, 22B, or 22C.

Debtor's Marital Status:	DEPENDENTS OF DEBTOR AND SPOUSE	
	RELATIONSHIP(S): None.	AGE(S):
Married		
Employment:	DEBTOR	SPOUSE
Occupation	Shift Manager	Disabled
Name of Employer	Main Street Station Hotel & Casino	
How long employed	32 years	
Address of Employer	200 N. Main Street Las Vegas, NV 89101	

INCOME: (Estimate of average or projected monthly income at time case filed)

1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly)
2. Estimate monthly overtime

DEBTOR	SPOUSE
\$ <u>6,797.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>

3. SUBTOTAL

\$ <u>6,797.00</u>	\$ <u>0.00</u>
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4. LESS PAYROLL DEDUCTIONS

- a. Payroll taxes and social security
- b. Insurance
- c. Union dues

d. Other (Specify): 401(K)
401(K) loan repayment

\$ <u>1,029.00</u>	\$ <u>0.00</u>
\$ <u>100.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>
\$ <u>472.00</u>	\$ <u>0.00</u>
\$ <u>667.00</u>	\$ <u>0.00</u>

5. SUBTOTAL OF PAYROLL DEDUCTIONS

\$ <u>2,268.00</u>	\$ <u>0.00</u>
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6. TOTAL NET MONTHLY TAKE HOME PAY

\$ <u>4,529.00</u>	\$ <u>0.00</u>
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7. Regular income from operation of business or profession or farm (Attach detailed statement)

\$ <u>0.00</u>	\$ <u>0.00</u>
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8. Income from real property

\$ <u>0.00</u>	\$ <u>0.00</u>
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9. Interest and dividends

\$ <u>0.00</u>	\$ <u>0.00</u>
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10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above

\$ <u>0.00</u>	\$ <u>0.00</u>
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11. Social security or government assistance

(Specify): Social Security Benefits

\$ <u>0.00</u>	\$ <u>818.00</u>
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12. Pension or retirement income

\$ <u>0.00</u>	\$ <u>0.00</u>
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13. Other monthly income

(Specify): (anticipated) rental income May Ave Property

\$ <u>550.00</u>	\$ <u>0.00</u>
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\$ <u>0.00</u>	\$ <u>0.00</u>
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14. SUBTOTAL OF LINES 7 THROUGH 13

\$ <u>550.00</u>	\$ <u>838.00</u>
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15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)

\$ <u>5,079.00</u>	\$ <u>838.00</u>
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16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15)

(Report also on Summary of Schedules and, if applicable, on Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:

EXHIBIT A

In re **Terrance T McLaughlin,
Sherri D McLaughlin**

Case No. _____

Debtors

SCHEDULE G - EXECUTORY CONTRACTS AND UNEXPIRED LEASES

Describe all executory contracts of any nature and all unexpired leases of real or personal property. Include any timeshare interests. State nature of debtor's interest in contract, i.e., "Purchaser", "Agent", etc. State whether debtor is the lessor or lessee of a lease. Provide the names and complete mailing addresses of all other parties to each lease or contract described. If a minor child is a party to one of the leases or contracts, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m).

Check this box if debtor has no executory contracts or unexpired leases.

Name and Mailing Address, Including Zip Code,
of Other Parties to Lease or Contract

Description of Contract or Lease and Nature of Debtor's Interest.
State whether lease is for nonresidential real property.
State contract number of any government contract.

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continuation sheets attached to Schedule of Executory Contracts and Unexpired Leases

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10 TERRANCE T. MCLAUGHLIN, SHERRI D.
11 MCLAUGHLIN,

Date: 2/18/2010
Time: 1:30pm

12
13 Debtors.

Chapter 13

14 **CERTIFICATE OF SERVICE OF OBJECTION TO CONFIRMATION OF CHAPTER 13**
PLAN #2

16 1. On 2/16/2010 I served the following documents(s):

17 OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN #2

18 2. I served the above-named document(s) by the following means to the persons as listed below:

19 a. ECF System

20 Anthony Deluca
21 anthony@deluca-associates.com
22 Attorney for Debtors

23 Rick A. Yarnall
24 ecfmail@lasvegas13.com
 Trustee

1
2 **X b. United States mail, postage fully prepaid:**

3 Anthony Deluca
4 5830 W. Flamingo Rd., #233
5 Las Vegas, NV 89103
6 Attorney for Debtors

7 Terrance T. McLaughlin
8 Sherri D. McLaughlin
9 3216 Mason Ave.
10 Las Vegas, NV 89102
11 Debtors

12 Nevada Federal Credit Union
13 2645 S. Mojave Rd.
14 Las Vegas, NV 89121

15 **c. Personal Service**

16 I personally delivered the document(s) to the persons at these addresses:

17 1. For a party represented by an attorney, delivery was made by handing the
18 document(s) to the attorney's office with a clerk or other person in charge, or if no one is charge by
19 leaving the document(s) in a conspicuous place in the office.

20 2. For a party, delivery was made by handing the document(s) to the party or by
21 leaving the document(s) at the person's dwelling house or usual place of abode with someone of suitable
22 age and discretion residing there.

23 **d. By direct mail**

24 Based upon the written assignment of the parties to accept service by email or a court order. I
25 caused the document(s) to be sent to the persons at the mail addresses listed below. I did not receive,
26 within a reasonable time after the transmission, any electronic message or other indication that the
transmission was unsuccessful.

1 **X e. By fax transmission**

2
3 Based upon the written assignment of the parties to accept service by fax transmission or a court
4 order. I faxed the document(s) to the persons at the fax numbers listed below. No error was reported by
5 the fax machine that I used. A copy of the record of the fax transmission is attached.

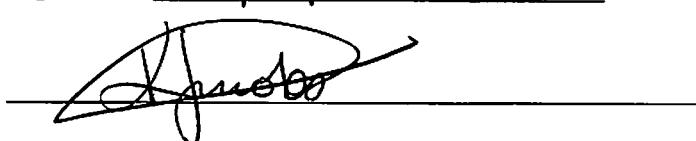
6 Anthony Deluca, Esq.
7 Facsimile # (702) 873-5903
8 Attorney for Debtor

9 **f. By messenger**

10 I served the document(s) by placing them in an envelope or package addressed to the persons at
11 the addresses listed below and providing them to a messenger for service.

12 **I declare under penalty of perjury that the foregoing is true and correct.**

13 Signed on : 2/10/10



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